

ಕರ್ನಾಟಕ ರಿಯಲ್ ಎಸ್ಟೇಟ್ ನಿಯಂತ್ರಣ ಪ್ರಾಧಿಕಾರ,

Karnataka Real Estate Regulatory Authority,

# 1/14, 2nd Floor, Silver Jubilee Block, Unity Building Backside, CSI Compound,  
3rd Cross, Mission Road, Bengaluru-560027

**PROCEEDINGS OF THE AUTHORITY BEFORE BENCH 6**

**Dated 30<sup>th</sup> OCTOBER, 2023**

**PRESIDED BY HON'BLE MEMBER SMT.NEELMANI N RAJU**

**COMPLAINT NO.: CMP/220912/0009998**

**COMPLAINANTS.....**

**SHEKHAR CAMARUSHY &  
SASIKALA CAMARUSHY  
1001, AMAR CHS  
PLOT NO.7, SECTOR 58A  
PALM BEACH ROAD  
PIN CODE: 400706  
DISTRICT: THANE  
STATE: MAHARASHTRA**

**(BY MS. JASLEEN KAUR, ADVOCATE)**

**Vs**

**RESPONDENT.....**

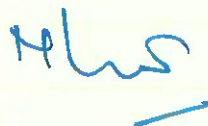
**CENTURY REAL ESTATE HOLDINGS  
PRIVATE LIMITED  
3/1, 4<sup>TH</sup> FLOOR, JP TECHNO PARK  
MILLERS ROAD, VASANTH NAGAR  
BANGALORE-560052**

**(BY MR. CHANDAN & MR.SHIVANAND  
ANCHI, ADVOCATES)**

**\* \* \* \* \***

**J U D G E M E N T**

1. This complaint is filed under section 31 of the RERA Act against the project "**CENTURY ETHOS**" developed by **M/S. CENTURY REAL ESTATE HOLDINGS PRIVATE LIMITED** situated at Century Ethos, Amruthahalli, Yelahanka Hobli, Bangalore North, Bangalore Urban District for the relief of interest on delay period.



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2. This project has been registered under RERA vide registration No.PRM/KA/RERA/1251/309/PR/171014/000283 and was valid from 31/12/2020. The Authority granted covid-extension for a period of nine months i.e. till 30/9/2021. The Authority has extended its registration for a period of 12 months i.e. till 30/09/2022.

**Brief facts of the complaint are as under:**

3. The complainants had purchased a flat bearing No.701, Tower Chrome, 7<sup>th</sup> Floor in the project of the respondent and entered into an agreement to sell and construction agreement on 30/01/2018 and have paid an amount of Rs.2,93,33,227/- (Rupees Two Crore Ninety Three Lakh Thirty Three Thousand Two Hundred and Twenty Seven only) on various dates to the respondent. The respondent was supposed to handover the apartment to the complainants by the end of December 2020 which is inclusive of the grace period of six months (as per Para 3.1 of the construction agreement dated 30/1/2018). Despite substantial sale consideration amount has been paid to the respondent, the respondent has failed to handover the possession of the flat till date. Thus, the complainants have approached this Hon<sup>ble</sup> Authority, to direct the pay interest for the delay period. Hence, this complaint.
4. After registration of the complaint, in pursuance of the notice, the respondent has appeared before the Authority through their counsel and have submitted statement of objections as under and documents on its behalf.
5. The respondent in their statement of objections have denied the allegations made against them by the complainants are false and that the complaint is not maintainable and is liable to be dismissed as this

complaint does not come under the purview of section 18 & 19 of the RERA Act 2016.

6. The respondent submits that they are the absolute owner of immovable property situated at Amruthahalli Village, Yelahanka Hobli, Bangalore North. The respondent submits that they had entered into JDA with Land Owners to develop the property consisting of four residential towers Argon, Bronze, Chrome and Xenon and that the respondent would be entitled to 80% share. The respondent submits that they had entered into JDA with Land Owners to develop the property consisting of four residential towers Argon, Bronze, Chrome and Xenon.
7. The respondent submits that BDA had approved development plan vide its order dated 14/3/2013. The respondent submits that the complainants satisfied with the title of the owner to the scheduled property entered into agreement for sale and construction agreement dated 30/1/2018. The respondent contends that the complainants were having complete knowledge of the pros and cons involved in the project and had voluntarily agreed to purchase the said flat.
8. The respondent submits that due to certain force majeure events i.e. delay was caused in completion of the project due to delay caused by government agencies in issuing commencement certificate etc., outbreak of Covid-19 pandemic, state government imposed lockdowns, scarcity of raw materials, transport disruption, non-availability of skilled labourers the construction activities suffered and lost its pace.
9. The respondent submits that they had kept the communication with the complainants continuously informing them that they have applied for occupancy certificate and once it is issued they would proceed with the registration of the flat in favour of the complainants.



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10. The respondent contends that the complainants to enrich themselves have filed this complaint. The respondent contends that they cannot be held liable for the delay which has been caused due to events beyond their control. The respondent further contends that the complainants have not provided any material to show that the project is incomplete or the construction of their flat is incomplete. The respondent contends that they cannot be held liable for the delay in issuance of occupancy certificate.
11. In support of their defence, the respondent has produced copies of agreement for sale, construction agreement, letter dated 2/2/2022 requesting BBMP for issue of Occupancy Certificate. Despite opportunities were given, the respondent has not submitted their memo of calculation.
12. In support of their claim, the complainants have produced documents such as agreement for sale, construction agreement, Payment receipts and memo of calculation as on 07/02/2023.
13. This case was heard on 21/12/2022, 7/2/2023, 16/3/2023, 30/5/2023, 4/7/2023, 9/8/2023 and 4/10/2023. Heard arguments of both sides.
14. On the above averments, the following points would arise for my consideration:
- Whether the complainants are entitled for the relief claimed?
  - What order?
15. My answer to the above points are as under:-
- In the Affirmative.
  - As per final order for the following:

**REASONS**

16. **My answer to Point No.1:-** From the materials placed on record, it is apparent that inspite of entering into an agreement for sale and construction agreement to handover the possession of the flat to the complainants, the respondent has not completed the project as per agreement and has delayed the project, and has failed to handover the unit in favour of the complainants as agreed. Hence, the respondent has failed to abide by the terms of the agreement for sale and construction agreement dated 30/1/2018.
17. From the averments of the complaint and the copies of agreement between the parties, it is obvious that the complainants have paid total sale consideration amount to the respondent. Having accepted the said amount and failure to keep up promise to handover possession of the apartment certainly entitles the complainants herein for interest on delay period.
18. The Hon'ble Authority has perused the statement of objections submitted by the respondent. The Hon'ble Authority has not agreed with the contentions raised by the respondent in their objections.
19. At this juncture, my attention is drawn towards the decision of Hon'ble Supreme Court in Appeal No.6750-57/2021, M/s Newtech Promoters v/s The State of Uttar Pradesh it is held as under:  
*"Para No.22:- If we take a conjoint reading of subsections (1), (2) and (3) of section 18 of the Act, the different contingencies spelt out therein, (A) the allottee can either seek refund of the amount by withdrawing from the project; (B) such refund could be made together with interest as may be prescribed; © in addition, can also claim compensation payable under sections 18(2) and 18(3) of*



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*the Act; (D) the allottee has the liberty, if he does not intend to withdraw from the project, will be required to be paid interest by the promoter for every month's delay in handing over possession at such rates as may be prescribed."*

20. As per section 18(1) of RERA Act, in case the allottee wishes to withdraw from the project, the promoter is liable without prejudice to any other remedy available, to return the amount received by him in respect of that apartment, plot, building as the case may be with interest at such rate as may be prescribed in this behalf including compensation in the manner as provided under this Act.
21. Therefore, as per section 18(1) of the Act, the promoter is liable to return the amount received along with interest and compensation only if the promoter fails to complete or provide possession of an apartment etc., in accordance with sale agreement.
22. The complainants vide their memo of calculation as on 7/2/2023 have claimed an amount of Rs.1,67,17,922/- (Rupees One Crore Sixty Seven Lakh Seventeen Thousand Nine Hundred and Twenty Two only) as interest on delay period calculated from 30/4/2017 till 7/2/2023. Despite several opportunities were given, the respondent has failed to submit their memo of calculation.
23. The Hon'ble Authority has not accepted the memo of calculation submitted by the complainants as the interest on delay period should have been calculated from 31/12/2020.
24. Having regards to the above aspects, the Hon'ble Authority concludes that the complainants are entitled for interest on delay period from 31/12/2020 till the date of handover of the possession of the flat by the respondent.

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25. Therefore, it is incumbent upon the respondent to pay interest for the delay period which is determined as under:

Payment Details			
S.NO	TYPE	AMOUNT	DATE
1	TOTAL PAYMENT TILL POSSESSION AS PER AGREEMENT	2,93,45,337	31-12-2020
2	TOTAL DELAYED INTEREST as on 30/09/2023	79,24,260	

Interest Calculation						
S.NO	FROM DATE	TO DATE	NO. OF DAYS	MCLR RATE	INTEREST RATE	INTEREST
INTEREST CALCULATION FOR AMOUNT PAID TILL POSSESSION 2,93,45,337						
1	31-12-2020	31-01-2021	31	7.3	9.3 as on 10-12-2020	2,31,787
2	31-01-2021	28-02-2021	28	7.3	9.3 as on 10-01-2021	2,09,356
3	28-02-2021	28-03-2021	28	7.3	9.3 as on 10-02-2021	2,09,356
4	28-03-2021	28-04-2021	31	7.3	9.3 as on 10-03-2021	2,31,787
5	28-04-2021	28-05-2021	30	7.3	9.3 as on 10-04-2021	2,24,310
6	28-05-2021	28-06-2021	31	7.3	9.3 as on 15-05-2021	2,31,787
7	28-06-2021	28-07-2021	30	7.3	9.3 as on 15-06-2021	2,24,310
8	28-07-2021	28-08-2021	31	7.3	9.3 as on 15-07-2021	2,31,787
9	28-08-2021	28-09-2021	31	7.3	9.3 as on 15-08-2021	2,31,787

*Handwritten signature*

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10	28-09-2021	28-10-2021	30	7.3	9.3 as on 15-09-2021	2,24,310
11	28-10-2021	28-11-2021	31	7.3	9.3 as on 15-10-2021	2,31,787
12	28-11-2021	28-12-2021	30	7.3	9.3 as on 15-11-2021	2,24,310
13	28-12-2021	28-01-2022	31	7.3	9.3 as on 15-12-2021	2,31,787
14	28-01-2022	28-02-2022	31	7.3	9.3 as on 15-01-2022	2,31,787
15	28-02-2022	28-03-2022	28	7.3	9.3 as on 15-02-2022	2,09,356
16	28-03-2022	28-04-2022	31	7.3	9.3 as on 15-03-2022	2,31,787
17	28-04-2022	28-05-2022	30	7.4	9.4 as on 15-04-2022	2,26,722
18	28-05-2022	28-06-2022	31	7.5	9.5 as on 15-05-2022	2,36,772
19	28-06-2022	28-07-2022	30	7.7	9.7 as on 15-06-2022	2,33,958
20	28-07-2022	28-08-2022	31	7.8	9.8 as on 15-07-2022	2,44,249
21	28-08-2022	28-09-2022	31	8	10.0 as on 15-08-2022	2,49,234
22	28-09-2022	28-10-2022	30	8	10.0 as on 15-09-2022	2,41,194
23	28-10-2022	28-11-2022	31	8.25	10.25 as on 15-10-2022	2,55,465
24	28-11-2022	28-12-2022	30	8.35	10.35 as on 15-11-2022	2,49,636
25	28-12-2022	28-01-2023	31	8.75	10.75 as on 15-08-2023	2,67,926





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26	28-01-2023	28-02-2023	31	8.6	10.6 as on 15-01-2023	2,64,188
27	28-02-2023	28-03-2023	28	8.7	10.7 as on 15-02-2023	2,40,872
28	28-03-2023	28-04-2023	31	8.7	10.7 as on 15-03-2023	2,66,680
29	28-04-2023	28-05-2023	30	8.7	10.7 as on 15-04-2023	2,58,078
30	28-05-2023	28-06-2023	31	8.7	10.7 as on 15-05-2023	2,66,680
31	28-06-2023	28-07-2023	30	8.7	10.7 as on 15-06-2023	2,58,078
32	28-07-2023	28-08-2023	31	8.75	10.75 as on 15-07-2023	2,67,926
33	28-08-2023	28-09-2023	31	8.75	10.75 as on 15-08-2023	2,67,926
34	28-09-2023	30-09-2023	2	8.75	10.75 as on 15-08-2023	17,285
					TOTAL DELAYED INTEREST as on 30/09/2023	79,24,260

26. Accordingly the point raised above is answered in the Affirmative.

27. **My answer to Point No.2:-** In view of the above discussion, I proceed to pass the following:-

**ORDER**

In exercise of the powers conferred under Section 31 of the Real Estate (Regulation and Development) Act, 2016, the complaint bearing No.**CMP/220912/0009998** is hereby allowed.

The respondent is directed to pay a sum of **Rs.79,24,260/-**  
**(Rupees Seventy Nine Lakh Twenty Four Thousand Two**



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**Hundred and Sixty only**) towards delay period interest to the complainants within 60 days from the date of this order, calculated MCLR + 2% from 31/12/2020 to 30/09/2023.

The interest due from 01/10/2023 up to the date of final payment will be calculated likewise and paid to the complainants.

The complainants are at liberty to initiate action for recovery in accordance with law if the respondent fails to pay the amount as per the order of this Authority.

No order as to the costs.

  
(Neelmani N Raju)  
Member, K-RERA